

## **REMARKS**

Claims 1-15 are currently pending. Claims 1-9, and 11-15 are amended.

Applicants request reconsideration of claims 1-15 in view of the above amendments and the following remarks.

### **Amendment to Specification**

Applicants respectfully submit that element 202 has been incorrectly described as 402 in the paragraph from lines 17-25 in page 5 of the specification. Element 204 has also been incorrectly described as 203 in the paragraph from lines 26-30 in page 7 of the specification. Appropriate amendments have been made.

### **Claim Objections**

The Office Action has objected to claims 1-5 because there is no proper antecedent basis of the term “a phoneme cluster” in line 7 of claim 1. Applicants have made appropriate changes to claim 1 to provide proper antecedent basis for the term “a phoneme cluster”. Applicants respectfully request the Office to withdraw the objection of claims 1-5.

### **Claim Rejections – 35 USC § 103 (*Kao* in view of *Yan*)**

The Office Action has rejected claims 1-15 under 35 U.S.C 103(a), as being unpatentable over U.S. Patent No. 6,317, 712 issued to Kao et al, hereinafter referred to as “*Kao*” and in view U.S. Patent No. 6,789,063 issued to Yan, hereinafter referred to as “*Yan*”.

Applicants respectfully submit that, in accordance with 35 U.S.C. § 103(c), *Yan* does not qualify as a prior art reference. 35 U.S.C. § 103(c) states in pertinent part:

*(c) (1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

(Emphasis added)

*Yan* cited by the Office “qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 ...” More particularly, *Yan* does not qualify under 35 U.S.C. § 102(a) because it was not “known or used ... or patented or described in a printed publication ... before the invention ...” *Yan* further does not qualify under 35 U.S.C. § 102(b) because it was not “patented or described in a printed publication ... or in public use or on sale ... more than one year prior to the date of application ...” *Yan* does not qualify under 35 U.S.C. § 102(c) as the provision relates to abandonment and not to prior art references. Lastly, *Yan* does not qualify under 35 U.S.C. § 102(d) as the provision relates to Applicants’ filing of an application in foreign jurisdictions and does not relate to prior art references.

Thus, *Yan* appears to qualify only under 35 U.S.C. § 102(e) as “(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent ...” Furthermore, *Yan* cited by the Office was (1) “subject to an obligation of assignment” to Intel Corporation (2) at “the time the claimed invention was made.” In support of this statement, Applicants refer the Examiner to the “Statement of Common Ownership under 35 U.S.C. § 103(c)” and its accompanying exhibits attached concurrently herewith. Thus, *Yan* falls under the exception set forth under 35 U.S.C. § 103(c).

Applicants respectfully submit that the Office does not allege that *Kao* discloses each and every element of the claims 1-15 rejected under 35 U.S.C. § 103, and in fact the Office acknowledges that *Kao* does not explicitly teach the limitation in claim 1 of

determining automatically if a phoneme cluster in the first cluster node is to be moved into the second cluster node based on a likelihood increase of the phone cluster of the first cluster node from being in the first cluster node to being in the second cluster node.

(Office Action page 3, lines 3-6)

Therefore, *Kao* does not serve to anticipate Applicants claims. Since *Yan* does not qualify as a prior art reference and because *Kao* fails to disclose each and every limitation claimed, Applicants respectfully submit that claims 1-15 are patentable over *Kao* and in condition for allowance. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection to claims 1-15.

### **Conclusion**

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (503) 439-8778 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

The Applicants respectfully petition for extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be needed. Please charge the fee under 37 C.F.R. § 1.17 for such extension to our Deposit Account No. 02-2666.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: May 30, 2008

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